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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,219	12/03/2003	Brian John Roberts	12406/88	7993
26646 7590 03/19/2007 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER KARKHANIS, AASHISH	
			ART UNIT 3714	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/728,219	ROBERTS, BRIAN JOHN	
	Examiner	Art Unit	
	Aashish Karkhanis	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/11/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 27-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 40 – 42 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: new claim 40 incorporated a skill based game, where the originally claimed lottery is a purely chance based game, and new claims 41 – 42 are drawn to event based wagering, and specifically sports related wagering, where the originally claimed invention is drawn to a lottery system and specifically an instant and interactive lottery game system.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 41 – 42 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 55 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language of “redeeming the lottery ticket for a prize in the instant win game *without receiving a tender of the removable covering*” is unclear.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 27 – 37, 43 – 46 and 48 – 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaye (U.S. Patent 5,569,082).

Regarding Claims 27 and 48, Kaye discloses a lottery gaming system including a lottery ticket, the lottery ticket including a ticket identifier, an interactive game information, and an instant game information, and a removable covering concealing the instant game information (col. 1, lins. 25 – 35), a lottery ticket dispenser configured to dispense the lottery ticket including an input device configured to receive, prior to the lottery ticket being dispensed, an input indicating a player's choice to purchase a ticket (col. 4, lins. 40 – 52) for use only as an instant lottery ticket or as a hybrid instant lottery ticket that is also usable in an interactive game (col. 7, lins. 45 – 54; where a player may choose on a menu to play either a simple "lotto" game or an interactive "horses game" using a lottery ticket), a central computer system in communication with the lottery ticket dispenser and configured to receive from the lottery ticket dispenser an indication that the player has chosen to purchase the lottery ticket for use in the interactive game, the central computer system configured to, responsive to the receipt of the indication, to activate the lottery ticket for use in the interactive game (col. 4, lins. 40 – 52; where a central single computer network controls lottery information and distribution), and a

computing device remote from and in communication with the central computer system configured to receive the interactive game information from the lottery ticket, the computing device further configured to be utilized by the player to play the interactive game based at least in part on the interactive game information (col. 5, lins. 60 – 65).

Regarding Claims 28 and 50, Kaye discloses a lottery gaming system wherein the lottery ticket dispenser includes a printer configured to print the interactive game information on the lottery ticket responsive to the indication that the player has chosen to purchase the lottery ticket for use in the interactive game (col. 3, lins. 4 – 12).

Regarding Claims 29 and 49, Kaye discloses a lottery game system wherein the lottery ticket is pre-printed with the interactive game information, the ticket dispenser including a reader configured to read the ticket identifier from the lottery ticket prior to the ticket being activated for use in the interactive game (col. 4, lins. 53 – 61; where tickets are preprinted using a ticket dispenser and are read by an amusement and actualization player terminal).

Regarding Claim 30, Kaye discloses a lottery game system, wherein the reader is configured to read the ticket identifier from the lottery ticket prior to the lottery ticket being dispensed (col. 3, lins. 4 – 18; where destiny codes can be re-read after printing in order to increase security as is well known in the art of lottery ticket generation).

Regarding Claims 31 and 51, Kaye discloses a lottery game system, wherein the ticket dispenser is further configured to communicate the ticket identifier read from the lottery ticket to the central computer (col. 4, lins. 46 – 52; where a ticket dispenser may be a terminal that reads destiny codes for interactive games from a central computer

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system which controls all codes, including verification of printed codes as is well known in the art of lottery ticket generation).

Regarding Claims 32 and 53, Kaye discloses a lottery game system wherein the ticket identifier and interactive game information are encoded in a bar code (col. 2, lins. 55 – 58; col. 3, lins. 7 – 12; where a bar code is a type of symbolic encryption that may be used to encrypt destiny codes that may be stored on a paper medium).

Regarding Claim 33, Kaye discloses a lottery game system wherein the ticket identifier and interactive game information are separate and apart on the ticket (col. 7, lins. 20 – 24; where interactive game information is stored in a destiny code and a ticket identification serial number history is stored in a separate location).

Regarding Claim 34, Kaye discloses a lottery gaming system wherein the interactive game information includes an access code configured to permit the player to access the interactive game (col. 3, lins. 23 – 25).

Regarding Claims 35 – 36, Kaye discloses a lottery gaming system wherein the computing device is in communication with the central computer system via the Internet and the interactive game information includes an Internet address where the player can access the interactive game (col. 9, lins. 1 – 3; where an on-line component for games is used, which may include the Internet).

Regarding Claim 37, Kaye discloses a lottery gaming system wherein the computing device is remote from the lottery ticket dispenser (col. 3, lins. 4 – 15; col 4, lins. 53 – 61).

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Regarding Claims 43 – 44, Kaye discloses a lottery gaming system wherein the interactive game information is pre-printed on the lottery ticket and activated in response to a transmission of the identifier to the central computer system (col. 3, lins. 23 – 25) and the central computer system is further configured to transmit the interactive game information to the ticket dispenser and wherein the ticket dispenser is configured, responsive to the receipt of the interactive game information from the central computer, to print the interactive game information on the game ticket (col. 6, lins. 1 – 6).

Regarding Claims 45 – 46, Kaye discloses a lottery gaming system wherein the removable covering is a scratch-off layer and wherein the removable covering includes the interactive game information (col. 1, lins. 25 – 32; where a removable covering includes game information).

Regarding Claim 52, Kaye discloses a method wherein the activating the lottery ticket occurs prior to providing the player the lottery ticket (col. 3, lins. 16 – 25; where a destiny code is generated and activated by a dispenser before it is given to a player, and later verified for use in an interactive game).

Regarding Claim 54, Kaye discloses a method including crediting an account of the player if the player wins the interactive game (col. 8, lins. 48 – 61).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye, as applied to claims above.

Regarding Claim 38, Kaye discloses a lottery gaming system wherein the computing device is remote from the lottery ticket dispenser (col. 3, lins. 4 – 15; col 4, lins. 53 – 61), but does not disclose that the computing device is incorporated into the lottery ticket dispenser. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the game system using separate lottery dispensing and player terminals of Kaye with an integrated lottery dispensing and player terminal in order to increase convenience for a player by providing all elements of a gaming system in one location.

4. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye, as applied to claims above in view of Roberts (U.S. Patent 5,772,510).

Regarding Claim 47, Kaye discloses a lottery ticket, but does not disclose a specific method of storing lottery tickets. However, Roberts teaches a lottery ticket wherein the lottery ticket is releasably coupled by lines of weakness to additional lottery tickets in a fan fold stack of lottery tickets (col. 3, lins. 29 – 30), in order to organize tickets for dispensing. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the lottery and interactive game system using tickets of Kaye with the fan folded tickets of Roberts in order to better organize tickets for dispensing.

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5. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaye, as applied to claims above in view of Fitzpatrick et al. (U.S. Patent 5,356,144).

Regarding Claim 39, Kaye discloses a lottery gaming system, with a computing device, but does not disclose a portable device. However, Fitzpatrick teaches a computing device wherein the computing device is a handheld device (col. 2, lins. 23 – 55), in order to increase convenience for a player. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the non-portable lottery generating device of Kaye with the portable lottery device of Fitzpatrick in order to increase convenience for a player.

Response to Arguments

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,582,324: Interactive Lottery System.

U.S. Patent 4,652,998: Interactive Lottery System.

U.S. Patent 5,709,603: Interactive Lottery System.

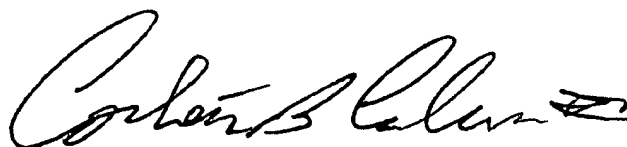
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aashish Karkhanis whose telephone number is (571) 272-2774. The examiner can normally be reached on 0800-1630 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARK

A handwritten signature in black ink, appearing to read "Corbett B. Coburn" with a stylized flourish at the end.

**CORBETT B. COBURN
PRIMARY EXAMINER**